

REMARKS

In the last Office Action, the Examiner rejected claims 1-6, 11-14, 16-17, and 19-23 under 35 U.S.C. § 102(b) based on U.S. Patent No. 5,659,165 ("*Jennings*"); and rejected claims 7-10, 15, 18, and 24 under 35 U.S.C. § 103(a) based on *Jennings*.

CLAIMS 1-6, 11-14, 16-17, AND 19-23

Applicants request withdrawal of the rejection of claims 1-6, 11-14, 16-17, and 19-23 under 35 U.S.C. § 102(b) based on *Jennings*.

In order to properly reject a claimed invention under 35 U.S.C. § 102, each and every element of the claim at issue must be found, either expressly or under principles of inherency, in a single prior art reference. "The identical invention must be shown in as complete detail as is contained in the . . . claim[s]." See M.P.E.P. § 2131 (8th Ed. May 2004). And, "[t]he elements must be arranged as required by the claim." *Id.*

Jennings fails to teach or suggest each and every element recited in amended claim 1. Specifically, *Jennings* fails to teach or suggest at least "forwarding to an issuer of [a] financial account a transaction message indicating a payment transaction and [a] received payment amount; . . . and allowing a purchase at the point-of-sale location to be charged to the financial account in combination with the payment transaction," as recited in claim 1. *Jennings* merely discloses a method for allowing funds to be transferred between accounts in different countries. *Jennings*, Abstract. Customers may use a dynamic touch screen 46 on a customer activated terminal (CAT) to transfer the funds between the accounts. *Id.*, col. 5, lines 65-67, col. 7, lines 19-26. This, however, is not the same as and does not suggest the features recited in claim 1. *Jennings* does not teach anything about a point-of-sale location or allowing a payment

transaction with a purchase at a point-of-sale location for payment to a financial account.

Accordingly, the rejection of claim 1 under 35 U.S.C. § 102(b) based on *Jennings* is unsupported by the cited reference, and should be withdrawn. The rejection of claims 2-4 under 35 U.S.C. § 102(b) based on *Jennings* should be withdrawn at least by virtue of their dependence upon allowable claim 1, in addition to the patentable subject matter contained therein.

Although claims 5, 6, 11-14, 16-17, and 19-23 recite different limitations and have scopes different from claims 1-4, the rejection of claims 5, 6, 11-14, 16-17, and 19-23 under 35 U.S.C. § 102(b) based on *Jennings* should be withdrawn for reasons similar to the ones discussed above for claims 1-4.

CLAIMS 7-10, 15, 18, AND 24

Applicants request withdrawal of the rejection of claims 7-10, 15, 18, and 24 under 35 U.S.C. § 103(a) based on *Jennings*.

Claims 7-10, 15, 18, and 24 depend upon claims 1, 5, 13, 16, 19, and 23, and include all limitations of claims 1, 5, 13, 16, 19, and 23, respectively. As discussed above, *Jennings* fails to teach or suggest each and every limitation recited in claims 1, 5, 13, 16, 19, and 23. Accordingly, the rejection of claims 7-10, 15, 18, and 24 under 35 U.S.C. § 103(a) based on *Jennings* should be withdrawn.

Further, pages 6 and 7 of the Office Action asserts that certain subject matter in claims 7-10, 15, 18, and 24 were well-known. To the extent the Office Action is relying on Official Notice in alleging that certain subject matter was well known, Applicants call attention to the provisions of M.P.E.P. § 2144.03, and the precedents provided in

Dickinson v. Zurko, 527 U.S. 150, 50 U.S.P.Q.2d 1930 (1999) and *In re Ahlert*, 424 F.2d, 1088, 1091, 165 U.S.P.Q. 418, 420 (CCPA 1970). An Official Notice rejection is improper unless the facts asserted are well known or common knowledge in the art, and capable of instant and unquestionable demonstration as being well known. M.P.E.P. § 2144.03. Further, any facts asserted as well known should serve only to “fill in the gaps” in an insubstantial manner. *Id.* It is never appropriate to rely solely on “common knowledge” without evidentiary support in the record as the principal evidence upon which a rejection is based. *Id.* Applicants submit that the features recited in claims 7-10, 15, 18, and 24 are not unquestionably well known, and the Office Action has not demonstrated the contrary. Accordingly, to the extent the Office Action is relying on Official Notice, Applicants respectfully traverse the Official Notice.

CONCLUSION

Applicants respectfully request reconsideration of this application and the timely allowance of the pending claims.

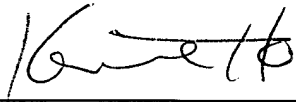
Further, the Office Action contains a number of statements characterizing the related art and claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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